

CORPORATE REPORT

Regulatory Burden Statement 2021



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Introduction

This statement explains how we reviewed our work in the last 12 months to make sure we did not introduce or [maintain unnecessary burdens](#). It also sets out how we propose to manage our regulatory burden in the next 12 months.

Any requirement we place on awarding organisations we regulate is a burden. We evaluate burden as part of regulation and as such our objective is not to remove necessary burden, rather to ensure that it is always exceeded by the benefits achieved through the measures we employ. We also consider how our requirements impact more widely, such as how schools, colleges and learners will be affected.

Our approach to regulatory burden has been informed by the government's better regulation agenda. This includes our contribution to the business impact target (BIT). We published a summary of our non-qualifying regulatory provisions as required by the legislation that governs BIT, [for the period 13 December 2019 to 12 December 2020](#).

Reviewing our work, April 2020 to March 2021

Coronavirus (COVID-19) pandemic

This statement covers our regulation in the context of a serious public health crisis. It was necessary to ask awarding organisations, those who work with schools and colleges and learners, to adopt new requirements in response to exams and assessments. We recognise that these requirements inevitably placed additional burden on all those involved. We have sought to ensure that burden has been proportionate to the situation and acted to reduce burden in other areas, where we could.

In addition to this statement, we have undertaken an analysis of the different activities that took place for qualification delivery in 2020, in the light of the coronavirus (COVID-19) pandemic. The aim was to capture the extent of the range of activity and associated cost implications of the coronavirus (COVID-19) pandemic across a small sample of organisations including awarding organisations and centres. [The supplementary analysis](#) can be viewed on our website and is published alongside the [qualifications price index for 2020](#).

Given the extraordinary nature of the public health crisis, Ofqual reviewed its activities, work programmes and priorities leading to changes in the planned work for 2020 to 2021. Our [Corporate Plan for 2020 to 2021](#) was unusual in focusing on the year ahead rather than the next three. Throughout the year, we acted to keep burden to a minimum where possible, but some additional burden was inevitable and necessary in the context of the coronavirus (COVID-19) pandemic.

We have continued to work with the regulators in Wales and Northern Ireland, on operational and information sharing activities where policy continued to be aligned so that duplication was avoided, where possible.

Some of the additional burden of delivering alternative arrangements can be balanced against activities which were no longer necessary in some circumstances, such as the delivery of exams or the marking or moderation of assessments for general qualifications (GQ), or the reduction in external verification activities in some vocational and technical qualifications (VTQ) which have been adapted to be delivered and quality assured remotely.

We reviewed our activities for the burden they might have generated for awarding organisations and in places made considerable changes to our ways of working, such as postponing policy change, audits and our annual conference. We also paused our evaluation of whether the conditions for reformed GQs worked as we intended.

We modified some of our requirements: for example, we required one Statement of Compliance across the England, Wales and Northern Ireland qualification regulators in an aligned timeframe, to reduce the burden awarding organisations would have experienced otherwise in having to complete three documents to different timescales.

We regularly reviewed our work and the activities we asked awarding organisations to undertake to identify any increased burden, ensuring where possible that any additional burden was proportionate and necessary: an example of where awarding organisations experienced increased activity was in VTQ data collections.

Below we provide some specific examples of the work we have undertaken and discuss the impact on burden within each example.

Consultation and feedback

1. While our usual regulatory framework, the General Conditions of Recognition, continued to apply for all awarding organisations, we also had to consult and then determine new regulatory frameworks to allow for the very different circumstances for assessments and examinations this year. As such we issued outcomes for 10 consultations for VTQ and GQ between 24 April 2020 and 25 February 2021.
2. Our consultations are open to anyone who wishes to respond, including: awarding organisations; those who work in schools and colleges; parents and learners. We received over 150,000 responses in total to all our consultations in 2020 to 2021 and we recognise that responding to consultations imposes burden on those who respond.
3. The evidence we ask for when conducting consultations mean that our cost-benefit analysis in regulatory impact assessments are as accurate as possible. The information informs our impact assessment calculations, minimises burden where appropriate and helps improve our decision making.
4. We made changes to the General Conditions of Recognition following a joint consultation with the Welsh and Northern Ireland regulators. We proposed to implement changes in April 2020, but based on consultation feedback decided instead that they would take effect in October 2020. Most of the changes were aimed at improving understanding of the Conditions and placed minimal burden on awarding organisations. In light of the disruption caused by the coronavirus (COVID-19) pandemic, we extended the implementation date for one of the changes - the publication of qualification fee information to 18 January 2021. This was to allow awarding organisations time to work with [statutory guidance published in autumn 2020](#), and to comply with the new requirements.

Monitoring awarding and results in 2020

5. The government's policy was to ensure that results were issued to as many learners as possible in spring and summer 2020. In order that we could understand the approaches VTQ awarding organisations were taking to their qualifications, we required them to categorise their [qualifications available to learners on our Register](#) and tell us which qualifications would receive calculated results, which would be adapted and which would be delayed. We

repeated a similar process in spring 2021 to understand their approaches towards awarding under the new VTQ Contingency Regulatory Framework (VCRF).

6. Our monitoring activity and requirements sought that results for summer 2020 were based on evidence and were sufficiently valid. We monitored awarding organisations' activity through 2020 to understand what they were doing in response to the coronavirus (COVID-19) pandemic. This included looking at a sample of awarding organisations record keeping activities for those offering calculated results or adaptations in 2020. We undertook a series of 'Readiness Reviews' with a number of awarding organisations offering high stakes qualifications to understand whether they had the right systems and processes in place for awarding in 2020. This was in advance of awarding in 2020 and we are currently undertaking the same activity in March/April 2021.
7. A number of VTQ awarding organisations implemented remote assessment and remote invigilation as a consequence of the coronavirus (COVID-19) pandemic and updated their IT systems as a consequence. This was [not without cost](#). Awarding organisations also needed to develop their IT systems to be able to issue calculated results in summer 2020.
8. Following the decision in August 2020 that [all students should receive their centre assessment grade or calculated grade](#) (whichever was the higher), we required exam boards to re-issue AS and A level grades in a short space of time and then to recalculate GCSE grades. While the same model was [not used in the majority of VTQs](#), we asked a small number of VTQ awarding organisations, that did use a similar approach to the A Level and GCSE model, to review their approach. A small proportion of VTQ results were reissued.

Engagement with awarding organisations

9. We developed new ways of engaging with awarding organisations offering VTQs to test out policy as it developed and to ensure our requirements could be implemented successfully. In addition, we moved all our meetings with awarding organisations online holding regular webinars with all awarding organisations and specific bespoke activity as required. We held events throughout all consultations and beyond to ensure awarding organisations were familiar with our new requirements. These additional engagement points recognised the significant changes to assessments and awarding required for 2020 and into 2021. None of our events or meetings were mandatory but awarding organisations chose to take part to ensure they remain updated on fast-paced policy developments.
10. Our regulatory strategy for VTQs under the Extraordinary Regulatory Framework (ERF), Extended Extraordinary Regulatory Framework (EERF) and VTQ Contingency Regulatory Framework (VCRF) requires awarding organisations to collaborate with other awarding organisations offering similar qualifications for awarding in summer 2020 and 2021. We facilitated cross-

organisation working between awarding organisations and their professional or sector bodies in 2020 where adaptations were required in qualifications. We continued with this facilitation work for 2021 awarding focussing on subjects taken in schools and/or colleges.

Data collections

11. Our VTQ data strategy involves increasing the number of routine data collections for VTQs over the coming years to be in line with GQs. We use the data we collect to help inform our decision making. This was something we were already working on pre-coronavirus (COVID-19) pandemic. We continue to be mindful of how and when we collect data and information from awarding organisations. However, the impact of the coronavirus (COVID-19) pandemic, with assessments and examinations being cancelled and calculated results being issued (VTQs and GQs) - or where assessments were adapted or postponed (VTQs) - meant that we inevitably needed to collect more data, more frequently than in previous years. We asked for data about the new and different ways of results being determined and grades awarded to suit the changing circumstances for 2020. This was also important in helping to support the system to deliver safe and timely results.
12. Where possible we cancelled or rescheduled GQ data collections to reduce burden on exam boards as they sought to implement our new requirements for summer 2020. We also amended, modified or cancelled other VTQ data collections in response to awarding organisation feedback.
13. We continued to publish [our reporting schedule](#) and data requirements in advance where possible. The schedule provides details of our standard data requirements from awarding organisations including exam boards so that they can modify their systems, collect relevant data from centres and plan their submissions to Ofqual during the year.
14. We held a quarterly Data Forum with the exam boards, where together with regulators for Wales and Northern Ireland, we discuss how we can work together to mitigate or remove burden when we make requests for data. This allows us to analyse and, where needed, publish data that helps to meet our statutory objectives. We also set up a new Data Forum for VTQ awarding organisations to seek to secure greater understanding of our regulatory requirements for data collections in this area. This was also in part due to the increased interest from the Department for Education and ministers in data about VTQs due to the coronavirus (COVID-19) pandemic.

Recognition

15. The Institute for Apprenticeships and Technical Education (the Institute) confirmed the move to a simplified system for external quality assurance (EQA) of apprenticeship end-point assessment in August 2020. From this point standards began to be transferred to Ofqual. Where they were not already recognised, end-point assessment organisations (EPAOs) began making formal applications for recognition from Ofqual. We are mindful that applying for recognition will cause burden on all potential organisation and so we engage with organisations before they submit a recognition application to us. We also made [information available to applicants on our website about the process](#) and our expectations and offered the opportunity to meet with experienced Ofqual staff in advance of submitting applications. Our panel sessions for recognition invite the prospective awarding organisation to discuss their suitability for recognition. As a consequence of this process, when organisations become regulated, they will have a better understanding of what is expected of them. We also provide induction sessions for newly recognised awarding organisations which were amended during the last year to be online, shorter and sharper in focus than previously.

Apprenticeships and EPA

16. We continue to work with the Education and Skills Funding Agency (ESFA) and the Institute to make sure that our requests for information to be able to recognise EPAOs are as efficient as possible. In relation to Technical Qualifications in T levels, [we have established a Quality Framework](#) with the Institute designed to minimise burden and avoid duplication.

Please see [Annex A](#) for a comparison of awarding organisation activity overtime.

Managing regulatory burden, April 2021 to March 2022

As a result of the disruption students and learners have faced due to the coronavirus (COVID-19) pandemic, [the government has said it is not viable for many exams and assessments to take place in summer 2021](#). We have worked closely with the Department for Education and awarding organisations to put in place [arrangements so qualifications and grades can be awarded this year](#), and learners can progress their education training or employment.

This places new requirements on awarding organisations, exam boards, centres, teachers and learners to support awarding in 2021. This may include new arrangements, such as the provision of teacher assessed grades, or amended policies and processes for example, support materials, quality assurance by awarding organisations, ongoing adaptations and appeals.

Any additional burden should be balanced against activities which will no longer be necessary, such as the delivery of exams or the marking or moderation of papers in GQ or, regarding VTQs, the reduction in some face-to-face quality assurance activities which, for some adapted VTQ assessments, have been replaced with remote delivery and monitoring by awarding organisations.

In the next 12 months we will seek not to impose or maintain unnecessary burden and keep our regulatory functions under review by:

1. Considering responses to our consultations where feedback indicates that any burden may be removed or mitigated. We will also continue to ask for evidence from awarding organisations so that our cost-benefit analysis in regulatory impact assessments are as accurate as possible. The information will inform our impact assessment calculations, minimise burden where appropriate and help improve our decision making.
2. Continuing to work with the Institute for Apprenticeships and Technical Education. We are designing processes that streamline the approval and accreditation process for Technical Qualifications, including for the submission of documentation to both the Institute and Ofqual, to avoid duplication where possible.
3. Ensuring our programme for recognising new end-point assessment organisations is planned in such a way that we minimise burden on all end-point assessment organisations. This includes commitments to removing duplicated requirements in the process and sharing appropriate information with the Institute and/or ESFA as relevant.
4. Wherever possible continue to share information with the Wales and Northern Ireland regulators on operational activities and areas of policy development, and working together where appropriate, as we regulate many of the same

awarding organisations. This seeks to avoid duplicate requests for information and support coordinated responses to issues, where appropriate.

5. Awarding Organisations should be fully compliant with our requirements for Centre Assessment Standards Scrutiny (CASS) by September 2021. We had already acted on feedback in the original consultation for this in 2019 to extend the timeframe for compliance from January 2021 to September 2021. The Statement of Compliance asked for awarding organisation feedback on their progress towards compliance but we recognise the closing date for such feedback was shortly after the Prime Minister's decision to close all schools and colleges on 4 January 2021. We have undertaken further engagement with awarding organisations to understand the impact of the coronavirus (COVID-19) pandemic, and offered further support. We have moved the date by when we will begin testing compliance from 2021 to 2022.
6. We will continue to roll out new ways of working with awarding organisations that suit the digital age we are now in with the coronavirus (COVID-19) pandemic. This means we will continue to use our digital Portal for communicating with awarding organisations. We will also use webinars and Teams meetings for our various engagement activities. We will once again host our annual conference to keep awarding organisations up to date with changes that are taking place.
7. Reforms to [post-16 technical education and training](#), to support people to develop the skills needed to get good jobs and improve national productivity, announced by government means that Ofqual is reforming the way we regulate VTQs. We anticipate we might introduce burden through new conditions designed to support the reforms. We will work to ensure that any burden we might impose will be proportionate and enable us to meet our objectives and duties.
8. We will continue to identify opportunities in our regulatory activities and processes to minimise or not maintain unnecessary burden. We will also listen and respond to any feedback from awarding organisations that we are imposing or maintaining unnecessary burden on them.

Annex A

Comparison of awarding organisation activity 2020 to 2021, 2019 to 2020 and 2018 to 2019

| Assurance activity | 2020/2021 | 2019/20 | 2018/19 |
|---|--|---------|---------|
| Recognition decisions | 203 | 84 | 100 |
| EPAO Recognition decisions | 149 | N/A | N/A |
| Monitoring preparation for and delivery of GCSE, AS and A level qualifications (number of exam boards) | Requirements differ due to coronavirus (COVID-19) pandemic | 4 | 4 |
| Monitoring preparation for delivery of vocational & technical (including applied general) qualifications in performance tables (number of awarding organisations) | | 20 | 20 |
| Ensuring the maintenance of standards - data collection and analysis for GCSE, AS and A level qualifications (number of exam boards) | Requirements differ due to coronavirus (COVID-19) pandemic | 4 | 4 |
| Ensuring the maintenance of standards - data collection and analysis for vocational & technical (including applied general) qualifications in performance tables (number of awarding organisations) | | 20 | 20 |
| Data readiness reviews (number of awarding organisations) | 16 | N/A | N/A |

| Compliance / Reform/ BAU Activity | 2020/2021 | 2019/20 | 2018/19 |
|---|------------------|----------------|----------------|
| Audit Visits | Nil | 32 | 31 |
| Technical Evaluation - End Point Assessment (number of awarding organisations) | 27 | 18 | 18 |
| Technical Evaluation - Essential Digital Skills Qualifications (number of awarding organisations) | 7 | 8 | N/A |
| Investigation Visits | 7 (remote) | 3 | 3 |
| Submit Annual statement of compliance | 157 | 161 | 156 |

| Regulatory action activity | 2020/2021 | 2019/20 | 2018/19 |
|-----------------------------------|------------------|----------------|----------------|
| Direction | Nil | Nil | 2 |
| Special Conditions | 8 | | |
| Fines | Nil | 3 | 3 |
| Undertakings | 4 | 7 | 9 |

| Other | 2020/2021 | 2019/20 | 2018/19 |
|---|------------------|----------------|----------------|
| Consultation decisions | 14 | 11 | 11 |
| Information notices requiring a response | 132 | 127 | 47 |
| Information requests requiring a response | 205 | 245 | 227 |
| Research publications | 17 | 19 | 17 |
| Scheduled data collections | 85 | 51 | 49 |



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